The
# REPORTER
*For Conscience' Sake*

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## World Council Evanston Assembly Recognizes COs

The Second Assembly of the World Council of Churches held in Evanston in August, in accepting Section IV on International affairs, gave some slight recognition to conscientious objectors. In this section, which was commended to the churches for study and appropriate action, the Assembly recognized that the World Council's "current study of the right of conscientious objection . . . is a necessary step in the direction of national and international action for its protection."

On motion by a delegate from Switzerland, an additional sentence asking the churches to plead for "just judgment and humane treatment" for conscientious objectors was inserted into the report.

## GAEDDERT APPOINTED MCC I-W DIRECTOR

Rev. Albert M. Gaeddert was appointed in August to the position of Director of I-W Services by the Mennonite Central Committee. His responsibilities are to work with Mennonite and Brethren in Christ I-Ws and to coordinate the ministry to them.

Presently on leave from the pastorate of a Mennonite church near Inman, Kans., Rev. Gaeddert also served as a director of a World War II CPS camp, visited many other camps, and was later co-director and, finally, general director of Mennonite CPS.

## NSBRO Constituents Interview "Presidential" Appeal Board, Justice Department, Pentagon Officials

On October 14, in connection with an NSBRO Consultative Council meeting, 22 denominational and peace agency leaders interviewed members of the national (Presidential) Selective Service Appeal Board, the head of the CO Division of the Justice Department, and Department of the Army officials acquainted with the work done by conscientious objectors in the armed forces. Problems of a more or less continuing nature relating to conscientious objectors were discussed in each of the interviews.

Participating in the interview with the Presidential Appeal Board were Ora Huston, O. S. Johnson, Huber Klemme, Byron Branson, Herman Will, George Willoughby, and NSBRO staff personnel. Following a presentation by Mr. Huston, the designated leader of the group, a general discussion was held between the group and the appeal board members. It was pointed out by the appeal board personnel that each case is individually considered and that the board's decision can only be based on the material in the registrant's draft file. The observation was made that COs often have on file very little material on their convictions, especially in comparison to the great amount submitted in an attempt to secure a deferment. It was also pointed out that COs from so-called non-historic peace churches often tend to base their I-O claim on reasons why they *think* war is wrong rather than basing it on their *beliefs* that war is wrong. That is, the appeal board apparently tends to deny a I-O classification if the claim appears to be even *partly* based on philosophical objections or merely a personal moral code.

If a registrant begins work with an agency approved for the employment of COs, but before such registrant has a I-O, the appeal board looks on this as a sign of sincerity. Lack of sincerity, however, is evidenced by a late CO claim, especially when made at a time of pressing military demands. Repentance and re-entering the church—especially a so-called "historic" peace church—might be regarded as evidence of sincerity. Another observation made by the board emphasized that COs should always file information supporting their CO convictions whenever they file information supporting any other claim for deferment.

The leader of the group interviewing Army officials was Merton Scott, and participating with him were Harold Sherk, E. J. Clelland, T. F. Barker, and NSBRO staff personnel. Major Abel and Chaplain Gaskins described in detail the plan for handling COs in the armed forces. They said that the I-A-O, after induction, receives 8 weeks of basic combat training followed by 8 weeks of medical training, with no training on religious days. Such non-combatants can only be assigned to medical

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# Supreme Court Will Consider Vital Issues in 4 CO Cases

**The Supreme Court will soon hear and decide the cases of four conscientious objectors, who were recently granted an appeal when the court approved petition for writ of certiorari. These men are Gonzales, Simmons, Sicurella, and Witmer, all Jehovah's Witnesses. Much importance to all COs is attached to these cases because of the issues involved.**

Is the act of a registrant in becoming affiliated with a religious sect about the time of being processed for induction, the use of self-defense in certain circumstances, the objection to obedience to secular authorities, or the raising of food which might help the war effort proper reasons for a local draft or appeal board to deny a CO claim? Must the government produce the FBI report at the criminal trial (if subpoenaed) so that the Court may determine whether the registrant has been supplied with a sufficiently fair summary of the adverse evidence to enable him to meet and rebut it? These and other questions will be decided.

Most of these questions raise the point of what is a "basis in fact" for classification? The Court of Appeals opinions in the first three above-mentioned cases, *Gonzales*, *Simmons*, and *Sicurella*, are quite different than other Circuit Court opinions in the *Annett*, *Schumann*, *Jewell* and *Thoman*, *Hartman*, *Weaver* and *Lowe*, and other cases. The following brief review of these cases, in regard to the "basis in fact" question, also indicates the great importance of the coming Supreme Court decisions.

### What Is a "Basis in Fact"?

The Supreme Court and the courts of appeals have stated positively that they cannot weigh the evidence which determines a classification and that the decision of the local (or appeal) board is final, though erroneous. The jurisdiction of the board can only be questioned if there is *no* "basis in fact" for the classification given the registrant.

In the *Annett* v. *U. S.* case, the 10th Circuit regarded the personal opinions of some FBI informants about Annett as having no basis on evidence, and thus could not be considered as having a "basis in fact." The 10th Circuit also mentioned that the poor family background of Annett, his belief in self-defense, and his lack of humility were not items of evidence which could be considered as a "basis in fact" for denying Annett a CO classification.

The 9th Circuit, in the *Schumann* v. *U. S.* case, stated that there was no "basis in fact" for Schumann's I-A classification because the local and appeal boards could not deny a registrant's claim for a ministerial classification simply because all other members of his sect (Jehovah's Witnesses) also claimed a ministerial classification, especially when Schumann did submit evidence indicating his full-time religious work. The court also stated that the Justice Department Hearing Officer relied on suspicion rather than affirmative evidence in concluding that Schumann was not sincere over a sufficiently long period of time (regarding his CO convictions) and therefore should be denied a CO classification.

### Other Circuits' Opinions

On January 8, 1954, the 2nd Circuit acquitted the appellant in the *Hartman* v. *U. S.* case because the Presidential Appeal Board had given Hartman a I-A after I-A-O classifications were given by the local and state appeal boards. The court, in its opinion, stated that the evidence in Hartman's file supporting his CO claim was "unimpeached and uncontradicted," and that the Presidential Appeal Board had no evidence to support the I-A it gave Hartman.

An important decision was reached by the Supreme Court in the *Dickinson* case on November 30, 1953. The Supreme Court stated that Dickinson's claim as a minister was not disputed by any evidence so that "when the uncontroverted evidence supporting a registrant's claim places him prima facie within the statutory exemption, dismissal of the claim solely on the basis of suspicion and speculation is both contrary to the spirit of the Act and foreign to our concepts of justice."

Following this Supreme Court case, the 6th Circuit in the *Jewell* and *Thoman* cases and the 8th Circuit in the *Weaver* and *Lowe* cases based the acquittals of these men on the *Dickinson* decision.

### Opposing Opinions

Five months after it acquitted Jewell and Thoman, the 6th Circuit on April 15, 1954, upheld the conviction of the appellant in the *Gonzales* v. *U. S.* case. Here the court stated that the registrant's sincerity can be doubted if he made the conscientious objector claim about the time he was liable for military service. Since Gonzales had become a Jehovah's Witness shortly before registration and because JWs are not necessarily conscientious objectors by virtue of their membership in the JW group, the court concluded that there was a basis in fact for the denial of the I-O classification to Gonzales.

On June 15, 1954, the 7th Circuit entered the controversy on what is a "basis in fact" by upholding the convictions of *Simmons* and *Sicurella* on their appeal. The court wrote a lengthy opinion upholding its position of contrast to most of the earlier opinions of other circuits. It held that the *Dickinson* case was not applicable because the proof for the ministerial exemption of Dickinson was different than the proof needed for the conscientious-objector claims of Simmons and Sicurella. The defendant's argument, based on the *Schumann* case, was discarded by the court because it thought the length of time a registrant held the CO conviction was a factor which could be used to deny a CO classification and provide a "basis in fact" for a I-A classification. Furthermore, the court stated that a belief in self-defense and the lack of a deep-seated conscientious belief could be a basis for denial of a CO claim.

*Roberson* v. *U. S.* (10th Cir.), *Taffs* v. *U. S.* (8th Cir.), *Pine* v. *U. S.* (4th Cir.), and *Wilson* v. *U. S.* (7th Cir.) are other cases in which the defendant has been acquitted on similar grounds.

With this great difference in opinion between a number of courts of appeals, pending action by the Supreme Court will take on considerable significance.


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## U. S. Attorney Reported To Attempt CO Intimidation

Assistant U. S. Attorney Ronald Greenberg of Detroit is reported to have used methods out of keeping with the function of a U. S. Attorney in an apparent attempt to intimidate two COs for running an ad in *The Michigan Daily* a number of months ago.

Because of the nature of the interviews requested and held by Greenberg the two men delayed reporting the events of the interview. Ultimately a report of Greenberg's attempted intimidation, which was sent to the Department of Justice, included the following points: the attorney threatened return of their cases to their draft board, "sarcastically" and "angrily" called the men smart-aleck college kids, verbally levelled accusations at the Jehovah's Witnesses and Muslims and stated that he wouldn't mind rounding up Muslims in their temples with machine guns, that the two COs were under the "shadow of the axe" and that "we've got men everywhere and sooner or later they'll get you, so be careful."

After the Department of Justice reported that no action against Greenberg was warranted in this case, Lyle Tatum, a Quaker and CCCO secretary who was interested in the case, interviewed Greenberg, and the District Attorney, Mr. Kaess. Many of the above points were admitted by Greenberg, but some were flatly denied. The results of the two interviews seem to indicate that the incident has not yet been brought to a satisfactory close.

Mr. Tatum is requesting that concerned persons write letters asking for the government's report of its investigation which is presently being kept silent. Letters may be sent to Herbert Brownell, Jr., Attorney General, Washington 25, D. C.; Fred Kaess, U. S. Attorney, 813 Federal Bldg., Detroit 26, Mich.; or to members of Congress.

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## JUDGE PAUL GIVES 3-YEAR SENTENCE TO CAMPBELL

Clifton Campbell, a member of the Luray, Va., Church of the Brethren, was given a 3-year sentence on Oct. 20, 1954, by Judge Paul of the District Court at Harrisonburg, Va. Indicted by the Grand Jury on Monday, Oct. 18, and tried and sentenced on Wednesday, Oct. 20, he was imprisoned at Mill Point,, W. Va., on Thursday, the 21st, after being denied freedom on bond while appealing his conviction.

## Kuhns, Wenger, Wingard Released From Prison

Paroled from prison on Oct. 16 were three Mennonite conscientious objectors from Indiana: Manas Kuhns, Charles Wenger, Jr., and Freeman L. Wingard. They had been given 2-year sentences for refusing induction and committed to the Chillicothe, Ohio, prison last February.

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## Jefferson Is Serving 2-Year Court Martial Sentence

In the Army, but conscientiously opposed to all military service (he did not know of the CO provisions in the draft law), Theotis Jefferson is serving a two-year sentence as a result of his second court martial for refusing to obey orders. His first sentence was 6 months and his second was originally 5 years, but later reduced.

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### Butgereit Fighting for Citizenship

Roy Butgereit, a Methodist and native-born U. S. citizen, is fighting to retain his citizenship which the Immigration and Naturalization Service is attempting to take from him. A CO, Butgereit left the U. S. on his 18th birthday, registered outside the country, but was charged by the Immigration and Naturalization Service with leaving the country to evade military service. At no time, however, has Butgereit been charged by the Department of Justice with any draft violation.

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## AMERICAN LEGION AGAIN ASKS FOR CPS CAMPS; FACTS OF I-W PROGRAM OVERLOOKED

The American Legion, at its national convention last August, adopted a resolution requesting CPS camps for conscientious objectors. The Legion resolution assumed that there is a limited number of positions available to COs for work in lieu of induction; the resolution assumed that, therefore, COs are not being assigned at the same time at which they would be inducted into the army, if they were not COs.

The assumption of the Legion appears wrong, as there are about 1600 agencies approved, only about half of which actually employ COs, and that Selective Service Headquarters is considering reducing this number because not enough COs are available.

## *COs Released From Prison Now Serve As I-Ws*

Two men who served prison sentences because of their convictions as conscientious objectors have recently been assigned to the civilian work program. They are Richard P. Nassal of New York and Dwight Platt of Kansas.

Richard Nassal was given a 1-year sentence on March 10, 1952, for refusing induction, was imprisoned at Danbury, Conn., and is now serving his I-W time at the St. Francis Boys' Home in Ellsworth, Kans.

A year and a day sentence was imposed on Dwight Platt on May 16, 1951. He was incarcerated at Springfield, Mo., and now is doing his alternative service in an American Friends Service Committee project.

Two other conscientious objectors who refused induction when denied I-O classifications, but who were subsequently acquitted by the courts, were also recently assigned to alternative service. Charles P. Crawford, of California, who was acquitted on Feb. 5, 1954, is now working at the Mendocino (Calif.) State Hospital. The other, Wilmer K. Derstine, of Pennsylvania, is now working at the Philadelphia (Pa.) State Hospital, after being acquitted on March 30, 1954.

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## Memoranda Reiterate Citizenship Denial To Exempted Aliens

Recent revisions of Local Board Memoranda Nos. 29 and 39, reiterate that certain aliens who are relieved of liability of service under the Selective Service Law shall be forever barred from citizenship. Germany was dropped on June 2, 1954, from a list of 18 countries which had reciprocal treaties with the U. S. providing for the exemption from service any aliens from these countries who so desired such exemption. Even now, once such exemption is received, the alien is permanently barred from citizenship. Those German aliens who had received exemption under the treaty will now have their classifications reopened.

Memorandum No. 29 states that doctors and other allied specialists from the present 17 treaty countries, who have not declared their intention for U. S. citizenship, do not register unless they should register under the regular draft law.

# Board of Directors Adopts Reorganization And Tenure Plan

## TAKES OTHER ACTIONS

At its meeting on October 14, the NSBRO Board of Directors adopted an Organization and Tenure plan. This plan provides for a Board of Directors of 7 members; it also provides for a tenure of 2 years. Approximately one-half of the terms expire each year, thus providing for continuity. The report describes in detail how Board members shall be nominated and by whom. All elections are finally made by the Board of Directors themselves.

Additional Board actions are as follows: A decision to send free to all I-Ws who request it THE REPORTER FOR CONSCIENCE' SAKE while they are in alternative service; approval of a limited plan for NSBRO staff to visit I-Ws who are out of contact with other I-Ws; a decision to hire a professional auditor; an expression of concern over the proposed reduction by Selective Service of the number of approved agencies for the employment of COs; and the adoption of the 1955 budget of $30,000. Reports by the I-W Executive Directors Committee, Literature to Chaplains Committee, and the Committee on Second Prosecutions were given. A word of greeting from M. R. Zigler, long-time chairman of the NSBRO Board, was also received.

## INTERVIEWS

(*Continued from page* 1)

duty, since even a chaplain's' assistant may be asked to carry a gun.

Ruth Seabury, plus many of the previously mentioned men, interviewed Mr. T. Oscar Smith, head of the CO Division of the Department of Justice. The question was raised as to the disposition of any material submitted by a registrant to a hearing officer at the time of a hearing. Such material, was the answer, if kept by the hearing officer,, never gets into the registrant's Selective Service file. But if the hearing officer includes it with his report, then the Justice Department has been forwarding it to the appeal board for consideration, along with the usual letter of recommendation and the résumé of evidence.

Registrants, when they have a hearing, thus might suggest to the hearing officer that the evidence they are submitting could be added to the material going to the Department of Justice.

# FOR AND ABOUT I-Ws

## I-W PAPER REQUESTS MANUSCRIPTS

Manuscripts are requested for a special literary magazine now being planned by the Topeka, Kansas, I-W unit in connection with its newspaper, *Capitol Highlights*. To be published in December, this issue will include fiction, poetry, reviews, critical essays, and articles of general interest. All of these, it is hoped, will contribute to the thinking and culture of our time through creative and peace-directed thinking.

Literary contributions for this special issue, which may be continued on a quarterly basis, are solicited from former and present I-Ws and their wives. Typed manuscripts should be sent to *Literary Issue, Capitol Highlights*, 721 Polk St., Topeka, Kans.

## Human Rights Day of Interest to COs

Human Rights Day is being held on December 10 to observe the 6th anniversary to the Universal Declaration of Human Rights. Declaring that "All human beings are born free and equal in dignity and rights," the Human Rights Committee of the United Nations will assist with literature and plans those local groups which will sponsor the event in their communities. Being members of a minority group, COs are deeply interested in human rights.

## SS GIVES NEXT COLLEGE QUALIFICATION TEST DEC. 9

The next series of Selective Service College Qualification Tests will be given on December 9, 1954, and April 21, 1955, to all registrants who are taking a full-time course of instruction, and who have not yet taken any such test. Applications for the December 9 test must be postmarked no later than midnight, November 23, 1954.

# Drs. Crain and Dakin Retire From NSBRO Directorship

## BOARD REORGANIZES

In keeping with their personal requests, and in keeping with a tenure plan adopted on Oct. 14 by the NSBRO Board of Directors, Drs. James A. Crain and E. LeRoy Dakin retired from the Board. Both men had served many years as NSBRO Directors.

Dr. Crain, a minister of the Disciples of Christ Church, was Executive Secretary of their Department of Social Welfare of the United Christian Missionary Society, with offices in Indianapolis, until June 1, 1954. He became a Board member when the NSBRO was organized in 1941 and served continuously since; later he was elected to the position of Recording Secretary. He is currently serving as Executive Secretary of the Joint Board of the Disciples Churches of Harris County (Houston), Texas.

Dr. Dakin, who retired from active church work a number of years ago, is a Baptist minister who served in numerous pastorates and on various boards of the American Baptist Convention. Following "retirement," he served during WW II as a field representative of NSBRO, contacting denominational leaders all over the country. Later he served as a field representative of CARE, making church and other agency contacts, both in this country and abroad. At the present time he is serving as Executive Director, Buffalo Chapter, Arthritic and Rheumatism Foundation, in western New York.

According to the new tenure plan, the terms of Harold Row and Huber Klemme also expired this year. Both men were re-elected. The officers of the Board as named on Oct. 14 are as follows: W. Harold Row, Chairman; William T. Snyder, Vice Chairman; W. Merton Scott, Recording Secretary; and Huber F. Klemme, Treasurer.

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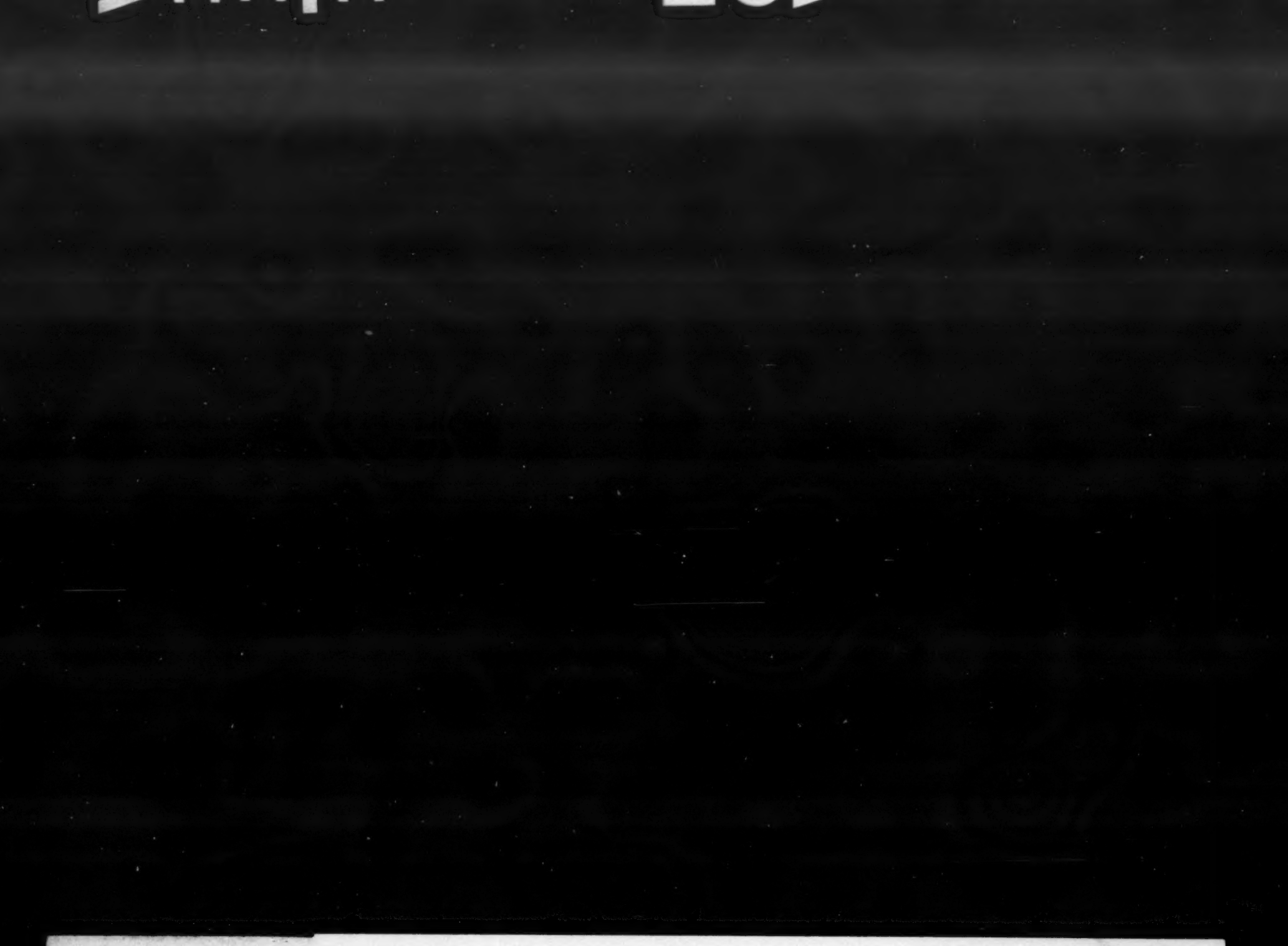
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